

TTAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

ERICA CHRISWELL,)	
)	
Opposer)	
)	
v.)	Opposition No.
)	Application Serial No. 77/751,586
BIG SCORE ENTERTAINMENT, LLC,)	
)	
Applicant.)	
)	
)	

NOTICE OF OPPOSITION

Opposer, Erica Chriswell, a United States citizen, whose principal business address is located at 8046 Narragansett, Burbank, IL 60459, hereby opposes registration of the mark ARIKA KANE by Big Score Entertainment, dba BSE Recordings Limited Liability Company, a Connecticut Limited Liability Company, with its principal place of business located at 421 Thompson Street, Stratford, CT 06615, that is the subject of Application Serial No. 77/751,586, published in the Official Gazette on November 9, 2010, and requests that registration to Applicant be refused.

As grounds for the opposition, the facts are as follows:

FACTS COMMON TO THE CASE

1. Opposer first appeared with Recording Artist "Twista" on his sophomore album entitled "Adrenaline Rush" released on Atlantic/BigBeat Records in 1997. Opposer was featured on that album on a internationally distributed, now accredited platinum

The PTO did not receive the following
listed item(s) *no fee enclosed*



02-07-2011

single entitled "Get It Wet". At this time, Opposer was referred to by the stage name and trademark "MS. KANE". This Album sold over 1,000,000 copies and is still in the marketplace for sale. **EXHIBIT 1 (ADRENALINE RUSH ALBUM COVER / CREDITS)**

2. In 1999, Opposer released an album with her group "Twista" and the "Legit Ballaz" entitled "Legit Ballin". At this time, Opposer intentionally introduced her fan base to another stage name called "ERIKA KANE" in a song called "Rider Bitch". Opposer was still referred to by the stage name and trademark "MS. KANE" on song credits. This Album sold 170,000 units and is still in the marketplace for sale. **EXHIBIT 2 (LEGIT BALLIN ALBUM COVER/ CREDITS) LISTEN TO RIDER BITCH BY ACCESSING THIS LINK**

http://www.amazon.com/gp/product/B000SFVY5M/ref=dm_dp_trk16

3. Eryka Kane is named and seen photographed with Twista in a celebrity photo spread featured in plugged magazine's July 2000 issue. **EXHIBIT 3 (PLUGGED MAGAZINE JULY 2000 ISSUE)**
4. In 2002, Opposer released an album with her group "Twista" and the "Legit Ballaz" entitled "Respect The Game" in which Opposer is referred in song lyrics as E. Kane and Ms. Kane. Opposer is referred to in credits by the stage names and trademarks MS. KANE. This album sold 40,000 units and is still in the marketplace. **EXHIBIT 4 (RESPECT THE GAME ALBUM COVER AND CREDITS)**
5. Additionally in 2002, Opposer released a second album entitled "Street Scriptures" in which Opposer is referred to by the stage names and trademarks MS. KANE, ERIKA KANE, and MS. ERIKA KANE. This Album sold 80,000 units and is still in the

marketplace. **EXHIBIT 5 (STREET SCRIPTURES ALBUM COVER AND CREDITS)**

6. In 2004, Opposer appeared on Twista's buzz single from the Platinum Album "Kamikaze" entitled "I Know". Opposer is referred to by the stage names and trademarks MS. ERYKA KANE. Album sales over 1,000,000 and still in marketplace.
7. In 2006, Opposer released the album "Tha Truth" with the group "Legit Ballaz" in which Opposer is referred to by the stage names and trademarks MS. ERYKA KANE. Album sales 50,000 and is still in the marketplace. **EXHIBIT 6 (THE TRUTH ALBUM COVER AND CREDITS)**
8. Eryka Kane is a featured performer on a 2009 showcase held in Chicago Illinois. **EXHIBIT 7 (PROMOTIONAL FLYER DISPLAYING THE NAME AND IMAGE OF ERYKA KANE)**
9. In 2010, Opposer released the album "Diesel" in which Opposer is referred to by the stage names and trademarks ERYKA KANE. This Album is currently on sale on iTunes. **EXHIBIT 8 (DIESEL ALBUM COVER AND CREDITS)** Access online at <http://itunes.apple.com/us/album/diesel/id352140060>
10. Additionally in 2010, Opposer released the album "The Addiction" in which Opposer is referred to as ERYKA KANE. Currently being distributed as a promotional material.
11. Additionally in 2010, Opposer released a music video in which she is referred to as ERYKA KANE and MS. ERYKA KANE. Access online at http://www.youtube.com/watch?v=4kMnS_zZJwQ

12. Eryka Kane's Business Card lists her social internet sites which enable her to communicate directly with her fan base. She employs the marks ERYKA KANE, as well as MS. ERYKA KANE in connection with her myspace, twitter, reverbnation and facebook accounts. **EXHIBIT 9 (ERYKA KANE'S BUSINESS CARD)**
13. Opposer is an entertainer and entrepreneur who has been known internationally by the stage name MS. KANE since as early as 1997.
14. Opposer is an entertainer and entrepreneur who has been known internationally by the stage name ERYKA KANE since as early as 1999.
15. Opposer is an entertainer and entrepreneur who has been known internationally by the stage name MS. ERIKA KANE and ERIKA KANE since 2002.
16. Opposer is the owner of all common law rights in the marks MS. KANE, MS. ERIKA KANE, MS. ERYKA KANE, and ERYKA KANE for digital media, namely CDs and downloadable audio files featuring music. As highlighted above, the Opposer has used these four marks for such goods and services since 1997. Opposer has never abandoned any of these marks.
17. On June 3, 2009, Applicant filed application Ser. No. 77/751,586 to register ARIKA KANE for "Digital materials, namely, CDs and downloadable audio recordings featuring music" in Class 9, for Jeans; Shoes; T-shirts in Class 25, and for "Entertainment services in the nature of live musical performances" in Class 41, based on an alleged first use in commerce date of January 1, 2008.

COUNT ONE: LIKELIHOOD OF CONFUSION

18. Opposer repeats and realleges the facts set forth in Paragraphs 1-17.
19. The mark ARIKA KANE sought to be registered for the above goods is so similar to Opposer's common law trademarks MS. KANE, MS. ERIKA KANE, MS. ERYKA KANE, and ERYKA KANE for the goods and services set forth in Paragraph 16, *supra*, as to be likely to cause confusion or to cause mistake or to deceive.
- Applicant's ARIKA KANE mark differs from Opposer's ERYKA KANE mark by two letters and the two marks are phonetically identical. Applicant's ARIKA KANE mark differs from Opposer's MS. ERYKA KANE and MS. ERIKA KANE by two letters, the addition of MS. in Opposer's above referenced trademarks, and are phonetically identical.
20. Use of the mark sought to be registered by Applicant is likely to cause confusion or to cause mistake or to deceive the purchasing public by reason of Opposer's Marks, by creating the mistaken belief that Applicant's goods are approved, endorsed, or sponsored by Opposer, or that Opposer is the source of Applicant's goods, or that the goods of Applicant are in some other way associated with Opposer, all to Opposer's grave injury and harm.

COUNT TWO: FALSE SUGGESTION OF CONNECTION

21. Opposer repeats and realleges the facts set forth in Paragraphs 1-17.
22. Opposer is an individual known by the names MS. KANE, MS. ERIKA KANE, MS. ERYKA KANE, and ERYKA KANE, and the use of ARIKA KANE by the Applicant will falsely suggest a connection with Opposer, in violation of Section 2(a)

of the Lanham Act, 15 U.S.C. § 1052(a). By reason of the foregoing, Opposer will be damaged by the registration of the ARIKA KANE mark.

WHEREFORE, Opposer prays that the opposition be sustained and that registration to Applicant be refused.

Dated: February 4, 2011

Respectfully submitted,

By: /evananderson/
Evan Anderson
John Alumit
Patel & Alumit, P.C.
16830 Ventura Blvd., Suite 360
Encino, CA 91436
(818) 380-1900
Attorneys for Opposer,
Erica Chriswell

PROOF OF SERVICE

I hereby certify that a true and complete copy of the foregoing **NOTICE OF
OPPOSITION** has been served on Brian C. Roche, counsel for Applicant, on February
4, 2011, via First Class U.S. Mail, postage prepaid to:

Brian C. Roche
Two Corporate Drive
Suite 248
Shelton, CT 06484

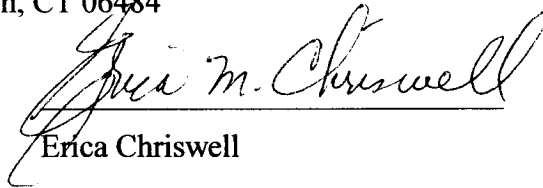

Erica Chriswell

Exhibit #1 Released 1997

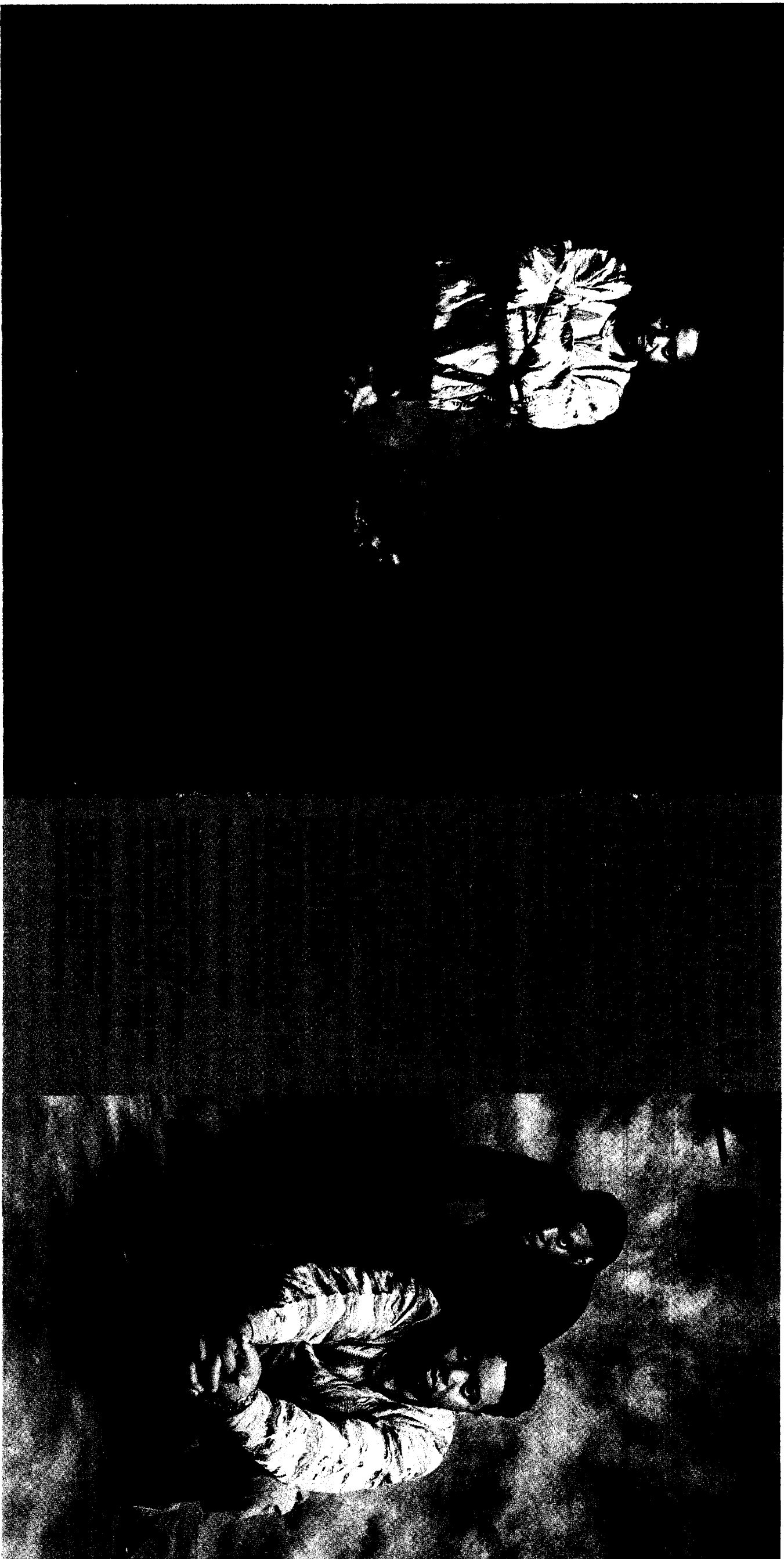


Adrenaline Rush



PARENTAL
ADVISORY
EXPLICIT CONTENT

Exhibit #1 continued



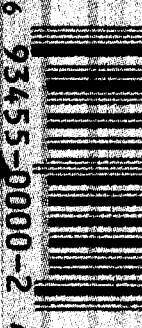
LOOK OUT FOR

"True Goodfella's Of The Rap Game."



Executive Producers: James Frazier & James Grider

Produced by James Frazier & James Grider. The album is a collection of tracks from the "Legit Ballin'" series, featuring various artists. The album is available on CD and cassette. The CD is priced at \$12.99 and the cassette at \$9.99. The album is available at all major retailers.



1. Intro > Twista
2. Victory Or Death > Twista
3. Legit Ballaz > Turtle Banxx, Tod Nitty, Twi
4. Artillery > Tod Nitty, Twista
5. It's Burning
6. Wide Open > Ms. Kane
7. Don Juan
8. My Apartment > Turtle Banxx
9. What Ya Gone Do > Bennie Franks, Buck
10. Don Juan
11. Jail Time > Turtle banxx
12. Pastor Ya Dig
13. Piece Of Mind > Darkside Ballaz
14. Bennie Franks > Bennie Franks
15. Unprotective sex
16. Rider Bitch > Ms. Kane
17. Don't Blink > Turtle Banxx
18. Get Em Off Me
19. Break Em Up > Bennie Franks, Tod Nitty, High Beam
20. Blood N Blood Out > Tod Nitty
21. Born This Way
22. Game Recognize Game > Twista, Ms. Kane, Public Announcement
23. Get Ya > High Beam, Twista
24. Grand Finale > Bennie Franks, Turtle Banxx, Tod Nitty, Twista
25. Weeeee Straight

Mixed by Bennie Grunden, Mastering: Hollywood, Ca. Mastered By Brian Butters, Gardner Photography > Tom
All Layout, Concept, Design > Ink Design Firm 312.719.0620
Photography By: Richard Big Two Photography By: Biggs, Thap, Ma, Reprograms

Legit Ballin@yahoo.com

Exhibit #2
Released 1999



MCM plugged pics



- 01... Aaron of Phil&Nate w/ Friends 02... Phil & Nate 03... O Loom w/ Marcell Model Jocelyn
- 04... Chillin w/ Ron Arceese of the Bulls 05... LaJuntas X-men w/ Eric Lawyer Heather Nelson 06... What's the Biz?
- 07... Drinks w/ Coodie & Cheese 08... Autumn of BMG w/ Kanye West producer 4 Nas, JD, & Lil Kim 09... Pretty Tony of Express Group
- 10... Corey of CK1 w/ Marc 11... Lou w/ Tone of Mafk Cap Records 12... Mat and Duane w/ Ran Digos 13... Jon Jon and his guy Carl Thomas
- 14... DJ John Styles w/ Spunk Buudhara 15... Former Miss USA Kenya Moore chillin w/ D of Studio D's 16... R. Kelly w/ our own Minda
- 17... Rye w/ Raphael Saadiq 18... Twista w/ artist Eryka Keyne 19... The infamous Vince Bass 20... Duane w/ MCM Models
- 21... Lou and Kor rockin Gerald Digable Gear

10 plugged



plugged & studio d's @ mercury and other plugged events (get plugged to the private key party)



There was no secret when Plugged Magazine and Studio D's sponsored an all night open bar at Secret Saturdays (Mercury), last month. Despite the rain, hundreds of beautiful peeps were packed into the club to get their drink on. Members got in free, others paid up to \$100.

Vince Adams kept the crowd groovin' with his display of turntable magic, while the ladies were checking out a few of the celebrities on hand, such as R. Kelly, Raphael Saadiq, & Tony of Express Group. The party was bananas, beautiful women, free drinks & food, what more could you want? If you missed it, they'll be back. Get plugged to receive your access key to the Private Key Party July 18th also brought to you by Plugged & Studio D's. Peace to Rob and Shayne for the blessing.

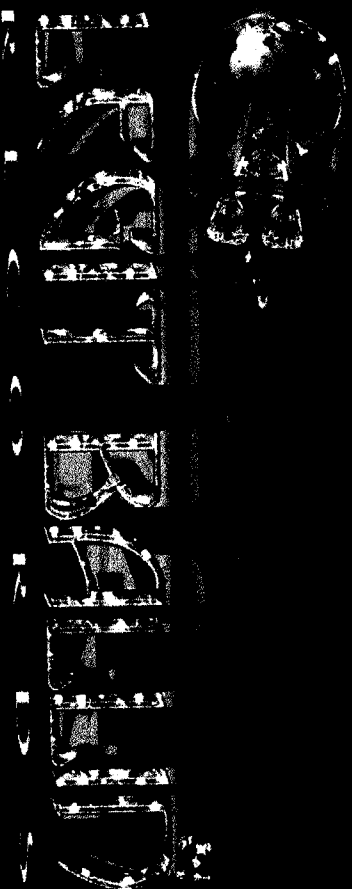
Secret Saturdays every week at Mercury 221 W. Van Buren.



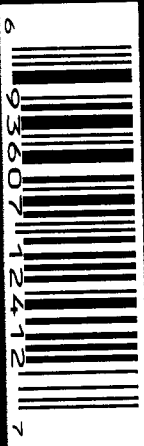
plugged 11

Exhibit #3 Printed July 2000

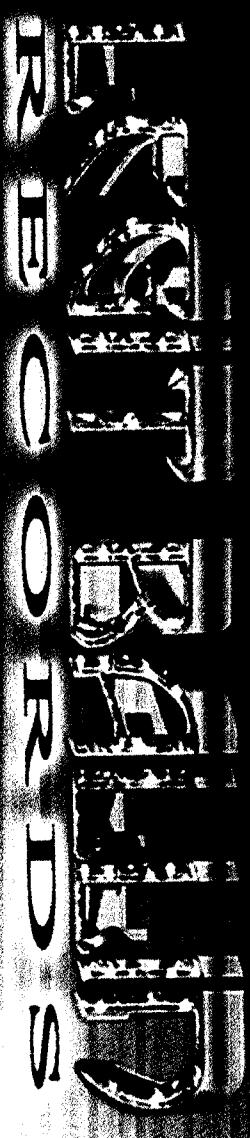
Exhibit #4 Released 2002



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CD-71241



PARENTAL
ADVISORY

Exhibit # 4 continued

1. INTRO STORY 1: SCOTTIE'S
2. LEGITIMATE
3. MORE NIGAS DON'T DIE
4. MASH & BANG
5. ON THE WAY INTERLUDE
6. BALL MATHS
7. STORIES
8. I DON'T KNOW AN
9. INTERLUDE
10. RUN
11. DIRTY GAM
12. WHY
13. BUT ME RIDE
14. INTERLUDE: SCAR'D STRAIGHT
15. WIT STRAIGHT
16. PLACED MIND (GEMINI)
17. ROT AND HERE
18. INTERLUDE
19. HOW TO BALL
20. PUT THAT THANG ON ME
21. INTERLUDE: VAGUES
22. GUTTY UP
23. INTERLUDE: DEDICATION TO ERIC A. TODD
24. PRAY FOR ME
25. SICKEN UP PART 2
26. HE LAY
27. WOULD BE MIND
28. QUIERO: KID PLEASANT

NOT REED

AMC



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AMC AND AMC TV ARE
REGISTERED TRADEMARKS OF
AMC NETWORKS, INC.

PRESENTS



PARENTAL
ADVISORY
EXPLICIT CONTENT

COMPILATION

Exhibit # 5 Released 2002

EXECUTIVE PRODUCER JAMES FRAZIER
GENERAL MANAGER REGINALD "BIG FUB" MCKINLEY

REST IN PEACE: TRACY TODD, LEM LEE, GAIL FLOWERS, JAMES FLOWERS,
CHARLES JACKSON, WALTER WHEAT, ANGELO ROBERTS, PIERRE FROM THE HOLY CITY,
ANNETTE MCKINLEY, ROSA MOORE, LUCY COOK, SHIRLEY MOORE, DIXIE MOORE

1. IN THE STREET SCENARIOS
PRODUCED BY CAYEX ILLAH FOR CHINA WHITE MUSIC
PUBLISHING - D. EVANS (CHINA WHITE ASCAP), LEGIT BALLIN RECORDS (ASCAP)
2. LEGIT BALLIN
FEATURING N. B. HANWHEE
PRODUCED BY TAYLOR (CHINA WHITE ASCAP), LEGIT BALLIN RECORDS (ASCAP)
PUBLISHING - F. TAYLOR (CHINA WHITE ASCAP)
3. NOE HANWHEE IN THE
FEATURING N. B. HANWHEE
PRODUCED BY TAYLOR (CHINA WHITE ASCAP), LEGIT BALLIN RECORDS (ASCAP)
PUBLISHING - F. TAYLOR (CHINA WHITE ASCAP)
4. LEGIT BALLIN RECORDS (ASCAP)
5. LEGIT BALLIN RECORDS (ASCAP)
6. LEGIT BALLIN RECORDS (ASCAP)
7. LEGIT BALLIN RECORDS (ASCAP)
8. LEGIT BALLIN RECORDS (ASCAP)
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18. LEGIT BALLIN RECORDS (ASCAP)
19. LEGIT BALLIN RECORDS (ASCAP)
20. LEGIT BALLIN RECORDS (ASCAP)
21. LEGIT BALLIN RECORDS (ASCAP)
22. LEGIT BALLIN RECORDS (ASCAP)
23. LEGIT BALLIN RECORDS (ASCAP)
24. LEGIT BALLIN RECORDS (ASCAP)
25. LEGIT BALLIN RECORDS (ASCAP)
26. LEGIT BALLIN RECORDS (ASCAP)
27. LEGIT BALLIN RECORDS (ASCAP)
28. LEGIT BALLIN RECORDS (ASCAP)

CONTACT INFO @

PRODUCED BY TOXIC & CAYEX ILLAH FOR CHINA WHITE PRODUCTIONS
GRAPHX & VIDEOS BY IMPAKT STUDIO (312) 982-3851
LAYOUT & PACKAGING FOR AMC BY NATANAS

Exhibit # 5 Continued

THE TRUTH

Vol. 4 starting the LEGIT BALLAZ

PARENTAL ADVISORY

ASIAN KANYE

BRINDA

WHITEBOY JAMES



1. Love, My Love
2. South Beach
3. The Fall
4. Run, Run, Run
5. Lady W. Mac
6. I'll Be There
7. Henry's Love
8. Faded
9. Girl Boy
10. Last of the Whores
11. Return to the Future
12. You're Gonna Get It
13. I'm a Man
14. Love, Love, Love
15. Money
16. Legit Ballaz

www.LEGITBALLRECORDS.COM

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Applicable Laws.



EXECUTIVE PRODUCERS:
JAMES WHITEBOY FRAZIER
BRINDA BUN PARTLOW

© 2006 Legit Ballin Records
Manufactured by Rainbo Records

Exhibit #6 Released 2006

CHICAGO

SOUTHSIDE HINVEST

Legacy

CHICAGO HINVEST

Hosted by Chicago
Meechie Hall

Also featuring
Sofow • A.T.M. • Jatin Skatelli • Ming Dynasty Power



Mad Man D. Criminal Munchz Spree ISPOOL Big Egoz Boozly Boy IS Fyke Krone JAYSELF

Sunday November 29, 2009

513-555-5555

Exhibit # 7 Printed
2009

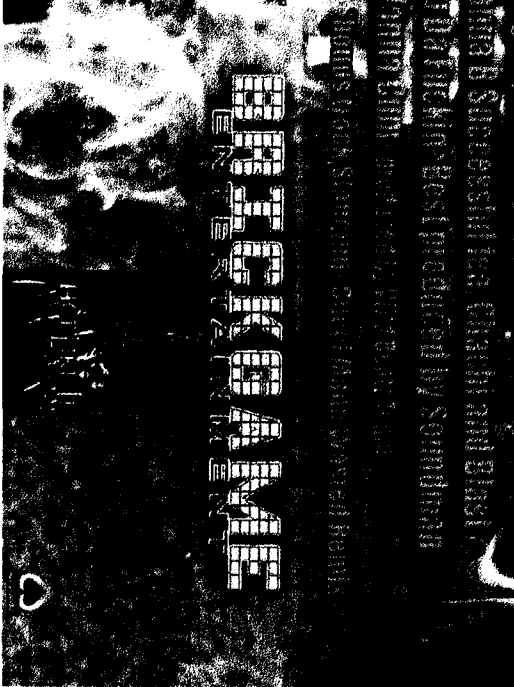
[illegible][illegible]

Exhibit # 8 Released
2010

Eryka Kane
Chief Executive Officer

BRICKGAMME
ENTERTAINMENT
"Get Rich Or Get Rich"

312.656.1319
brickgamemusic@gmail.com

www.myspace.com/erykakane
www.twitter.com/followererykakane
www.reverbnation.com/erykakane
www.facebook.com/mseerykakane

■ Social Sites
used by Artist

Erykahibit #9

• Eryka Kane myspace established May 2006
date can be verified at
www.myspace.com/erykakane